

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

GEORGE MORRIS,

Plaintiff,

VS.

RESTORED INVESTMENTS, LLC;
PELLA CORPORATION,

Defendants.

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Cause No. 4:16-cv-208

DEFENDANT PELLA CORPORATION'S NOTICE OF REMOVAL

Defendant Pella Corporation (Defendant), on the basis of federal-question jurisdiction and for the purpose of removing this case to the United States District Court for the Eastern District of Texas, Sherman Division—and with the express consent of the only other named defendant, Restored Investments, LLC—respectfully states:

1. State Court Action: This is a Small Claims Case filed by Plaintiff on February 19, 2016 in the Justice Court, Precinct 3, Place 1, Collin County, Texas, with Case Number 31-SC-16-00050. Plaintiff's suit is to recover damages under the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227.

2. Federal-Question Jurisdiction, Venue, and Timeliness: This action is removable under 28 U.S.C. § 1441 on the basis of a federal question jurisdiction. Specifically, Plaintiff’s claims are based on the TCPA—claims exclusively maintainable under 47 U.S.C. § 227, a federal law—thus, this Court has original jurisdiction under 28 U.S.C. § 1331 and 47 U.S.C. § 227. *See Mims v. Arrow Fin. Servs., LLC*, 132 S.Ct. 740,

745 (2012) (holding “that federal and state courts have concurrent jurisdiction over private suits arising under the TCPA.”). Venue is proper in this District and Division under 28 U.S.C. § 1441 because this action was pending in a state court in Collin County, Texas. Moreover, Defendant was reportedly served through its registered agent on March 2, 2016, thus removal is both proper and timely under 28 U.S.C. § 1446(b).

3. Consent: In accordance with 28 U.S.C. § 1446(b)(2)(A), all defendants who have been properly joined and served—a total of two defendants: (1) Pella Corporation, and (2) Restored Investments, LLC—expressly consent to removing this case to federal court.

4. State Court Documents: Under Local Rule 81, a Civil Cover Sheet is filed with this Notice; an Index of State Court Pleadings and Documents is attached as Exhibit A¹; and a List of Parties, Attorneys, State Court, and Other Information is attached as Exhibit B.

5. Notice: Defendant will give notice of filing its Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d); Defendant will further file with the state court a notice of filing this Notice of Removal.²

6. Prayer: Defendant prays that the United States District Court for the Eastern District of Texas, Sherman Division, accept this Notice of Removal, that it assume jurisdiction of this case, and that it issue all orders and processes necessary to bring all parties before it and resolve this case.

¹ The Justice Court of Collin County does not maintain a docket sheet (this is its long-standing practice), and so counsel provides the Court with certified copies of all pleading and related documents.

² Please note that any potential *pro hac vice* requirements (for attorneys not admitted to the Eastern District of Texas) will be dealt with in a timely manner by counsel.

Respectfully submitted,

/s/ C. Michael Moore

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***ATTORNEYS FOR DEFENDANT
PELLA CORPORATION.***

CERTIFICATE OF SERVICE

I certify that on March 25, 2016, the foregoing document and all associated Exhibits were served via USPS Certified Mail Return Receipt Requested and email on:

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***ATTORNEY FOR CO-DEFENDANT
RESTORED INVESTMENTS, LLC***

/s/ Kelley C. Cox